

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

201

RSA-584-1996 (O&M)

Date of Decision: 11.12.2023

Amit Kumar

.... Appellant

Versus

Mahabir Singh and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Ravi Kumar, Advocate for
Mr. Sanjay Mittal, Advocate for the appellant.

Service of respondents No. 3 and 4 already dispensed with
vide order dated 08.05.1998.

NIDHI GUPTA, J. (ORAL)

This is the plaintiff/appellant's second appeal against the judgment and decree dated 28.11.1995 passed by the Ist Appellate Court, vide which the appeal filed by the defendant No. 5/respondent No. 1 herein, was allowed reversing the judgment and decree dated 20.08.1992 rendered by the learned trial Court decreeing the plaintiff-appellant's 'suit for declaration'.

On 16.11.2023, when this case was listed for hearing, following order was passed by a co-ordinate Bench of this Court:-

"Let notices be issued to the appellants as well as respondents No. 1, 2, 5 and 6 for 11.12.2023, through ordinary process, e-mail or any other electronic mode."

Pursuant thereto, as per office report, notices issued to the sole appellant and respondent No. 2 have been received back unserved

with the report that ‘they are not residing at the given address’; whereas notices issued to respondents No. 1 and 5 have been received back with the report ‘died’. It has further been reported that notice issued to respondent No. 6 has been received back duly served. However, none has put in appearance on his behalf.

Learned counsel appearing for the sole appellant submits he has no instructions in the matter.

In the aforesaid premise, issuance of fresh notice to either of the parties would be a futile exercise. It appears that due to sheer long pendency of the present second appeal before this Court for a period of more than 27 years, the plaintiff/appellant, has lost interest in pursuing the same, as no attempt has been made by him to contact his previous counsel or to engage a new counsel.

Be that as it may, in view of the foregoing circumstances, the instant regular second appeal is dismissed for non-prosecution, with liberty to the appellant, to move an appropriate application within a period of 06 months from today for reviving the same, if so, advised.

Pending application(s), if any, also stand disposed of.

11.12.2023

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**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No